Filed 2/22/10

CERTIFIED FOR PARTIAL PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

MOHANI THIARA et al., Plaintiffs and Respondents, v. PACIFIC COAST KHALSA DIWAN SOCIETY et al., Defendants and Appellants.	F055729 (Super. Ct. No. 150896) **OPINION**

APPEAL from a judgment of the Superior Court of Merced County. Ronald W. Hansen, Judge.

Curtis & Arata, Arata, Swingle, Sodhi & Van Egmond, Jakrun S. Sodhi and Jineen T. Espinosa for Defendants and Appellants.

Cooper, White & Cooper, Stephen D. Kaus and Mark P. Cohen for Plaintiffs and Respondents.

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* Pursuant to California Rules of Court, rules 8.1105(b) and 8.1110, this opinion is certified for publication with the exception of parts II and III of the discussion.

Respondents sought a writ of mandate compelling appellants, a nonprofit religious corporation and its officers, to permit them to inspect the corporation's membership list, books, and records, based on respondents' claim they were members of the corporation. Appellants denied that respondents were members of the corporation, asserting the corporation has no members and the bylaws pursuant to which respondents claimed they were members were not the valid bylaws of the corporation. The court concluded respondents were members of the corporation and granted the petition for a writ of mandate, placing conditions on the disclosure of the requested information. In this appeal, appellants contend there was no substantial evidence to support the conclusions that the bylaws presented were valid and that respondents were members of the corporation. We agree and reverse.

FACTUAL AND PROCEDURAL BACKGROUND

Respondents are five individuals who allege they are members of appellant, Pacific Coast Khalsa Diwan Society, Sikh Temple Livingston California, Inc. (the Temple), a nonprofit religious corporation. The individual appellants are the president and secretary of the Temple. Respondents filed a petition for writ of mandate, which included a second cause of action for declaratory relief. The petition alleges that, pursuant to Corporations Code sections 9510 through 9512,[1] which apply to religious corporations, respondents, as members of the Temple, are entitled to inspect and copy certain books and records of the Temple. Respondents allege they requested an opportunity to inspect and copy those records, but appellants refused that request. Pursuant to section 9514, appellants' petition requests a writ of mandate to enforce their right of inspection. The declaratory relief cause of action alleges the existence of a dispute between the parties regarding whether the bylaws of the Temple, which respondents alleged were attached to the petition as exhibit A (Exhibit A bylaws), are the valid and existing bylaws governing the Temple; respondents sought a judicial declaration that the Exhibit A bylaws are the valid current bylaws of the Temple.

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1 All further statutory references are to the Corporations Code, unless otherwise indicated.

After appellants answered the petition, the court issued an alternative writ, directing appellants to appear and show cause why a peremptory writ of mandate should not issue requiring appellants to permit the requested inspection and copying. Appellants filed opposition to the petition. After hearing the matter, the court issued its judgment and order after hearing granting peremptory writ (judgment) on April 25, 2008, granting the application for a writ of mandate, but placing restrictions on the copying, inspection and use of the records. On July 17, 2008, appellants filed their notice of appeal. On September 29, 2008, this court notified the parties it was considering dismissing the appeal as untimely, and requested briefing by the parties on the issue of timeliness. The parties have addressed the issue in letter briefs. We now consider whether the notice of appeal was filed timely and whether the order appealed from is appealable, before turning to the merits of respondents' appeal.

DISCUSSION

I. Timeliness of Notice of Appeal

Generally, "a notice of appeal must be filed on or before the earliest of: [¶] (1) 60 days after the superior court clerk mails the party filing the notice of appeal a document entitled 'Notice of Entry' of judgment or a file-stamped copy of the judgment, showing the date either was mailed; [¶] (2) 60 days after the party filing the notice of appeal serves or is served by a party with a document entitled 'Notice of Entry' of judgment or a file-stamped copy of the judgment, *accompanied by proof of service*; or [¶] (3) 180 days after entry of judgment." (Cal. Rules of Court, rule 8.104(a), italics added.)[2]

There is nothing in the record to indicate the clerk mailed notice of entry of the judgment to the parties; accordingly, rule 8.104(a)(1) does not apply. Respondents' attorney mailed a copy of the judgment to appellants' counsel on May 1, 2008, along with a cover letter advising that it had been signed by the court on April 25, 2008. No proof of service was included in that mailing. The record contains a proof of service,

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[2] All further references to rules are to the California Rules of Court, unless otherwise indicated.

executed on July 3, 2008, which states that respondents' counsel served the judgment on appellants' counsel on May 1, 2008.

Appellants contend the May 1, 2008, mailing did not comply with rule 8.104(a)(2) because it was not "accompanied by proof of service." Consequently, they contend, respondents did not serve a notice of entry or a file-stamped copy of the judgment on appellants' attorney in compliance with rule 8.104(a)(2), so the applicable time for filing the notice of appeal is that set out in rule 8.104(a)(3): 180 days from entry of judgment. The notice of appeal was filed within that time, and appellants contend it was timely.

Respondents concede no proof of service was mailed to appellants with the May 1 letter, but contend the cover letter accomplished the same purpose by establishing the date the copy of the judgment was served. Thus, they argue, the 60-day period for filing a notice of appeal commenced on May 1, 2008; the notice of appeal was not filed within 60 days, it was therefore untimely, and the appeal should be dismissed.

"The ordinary principles of statutory construction govern our interpretation of the California Rules of Court. [Citations.] Our objective is to determine the drafter's intent." (*Alan v. American Honda Motor Co., Inc*. (2007) 40 Cal.4th 894, 902 (*Alan*).) "Intent is determined first and foremost by the plain meaning of the statute's language." (*Citizens for Civic Accountability v. Town of Danville* (2008) 167 Cal.App.4th 1158, 1161 (*Citizens*).) If the rule's language is clear and unambiguous, it governs, and there is no need for judicial construction. (*Alan, supra*, at p. 902; *Citizens, supra*, at pp. 1161-1162.) Only when the language is reasonably susceptible of more than one meaning is judicial construction warranted. (*Citizens*, at p. 1162.) A construction making some words surplusage is to be avoided. (*Metcalf v. County of San Joaquin* (2008) 42 Cal.4th 1121, 1135.)

The meaning of rule 8.104(a)(2) is clear and unambiguous. In order to commence the 60-day period for filing a notice of appeal, a party must serve "a document entitled 'Notice of Entry' of judgment or a file-stamped copy of the judgment, accompanied by proof of service." (Rule 8.104 (a)(2).) We cannot interpret the rule as permitting the 60-day time period to commence upon service of a notice of entry or file-stamped copy of

the judgment unaccompanied by a proof of service without rendering the words requiring a proof of service surplusage, a result to be avoided. The requirement of a proof of service was added to the rule for a specific purpose.

> "Subdivision (a)(2) requires that a notice of entry of judgment (or a copy of the judgment) served by or on a party be accompanied by proof of service. The proof of service establishes the date that the 60-day period under subdivision (a)(2) begins to run. Although the general rule on service (rule 8.25(a)) requires proof of service for all documents served by parties, the requirement is reiterated here because of the serious consequence of a failure to file a timely notice of appeal [citation]." (Advisory Com. com., Deering's Ann. Code, Rules (2009 ed.) foll. Rule 8.104.)

"An additional principle of construction applies when courts are called upon to resolve ambiguities in rules that limit the right to appeal, such as rule 8.104(a)(1). In such cases we follow the well-established policy … of 'according [the] right [to appeal] in doubtful cases "when such can be accomplished without doing violence to applicable rules."' [Citations.] This principle has led courts interpreting rule 8.104(a)(1) and its predecessors to hold that documents mailed by the clerk do not trigger the 60-day period for filing a notice of appeal unless the documents strictly comply with the rule." (*Alan, supra*, 40 Cal.4th at p. 902.) Similarly, a notice of entry or file-stamped copy of a judgment served by a party will not trigger the 60-day period unless it strictly complies with the provisions of rule 8.104(a)(2), including the requirement that it be accompanied by proof of service.

Proof of service by mail requires an affidavit or certificate setting forth specified information, including the date and place of mailing. (Code Civ. Proc., § 1013a, subds. (1), (2), (3).) While the cover letter respondents' attorney sent with the copy of the judgment may have borne a date, it did not state for appellants under oath the date on which the judgment was placed in the mail for service on appellants. In *Alan*, the court clerk mailed to each party in a single envelope a file-stamped statement of decision and a minute order (not file-stamped) entitled "Ruling on Submitted Matter." (*Alan, supra*, 40 Cal.4th at p. 898.) The court concluded neither document was "'a document entitled

"Notice of Entry" of judgment or a file-stamped copy of the judgment,'" as described in rule 8.104(a)(1). (*Alan*, at p. 904.) It further concluded the two documents combined did not satisfy the rule; rather, the rule required a single document, a notice of entry or file-stamped copy of the judgment, sufficient in itself to satisfy all of the rule's conditions. (*Id*. at p. 905.) The court added: "[T]he rule does not require litigants to glean the required information from multiple documents or to guess, at their peril, whether such documents in combination trigger the duty to file a notice of appeal. 'Neither parties nor appellate courts should be required to speculate about jurisdictional time limits.' [Citation.]" (*Ibid.*)

We do not believe a party should be required to speculate whether a cover letter accompanied by a copy of a judgment mailed to the party's attorney was intended to or did constitute a "'Notice of Entry' of judgment or a file-stamped copy of the judgment, accompanied by proof of service," sufficient to commence the running of the time for filing a notice of appeal under rule 8.104(a)(2). Strict compliance with the provisions of the rule is required. Because the copy of the judgment respondents mailed to appellants on May 1, 2008, was not accompanied by a proof of service, it did not comply with rule 8.104(a)(2) and did not commence the 60-day period for filing a notice of appeal. Service of a proof of service on July 3, 2008, reflecting a service date of May 1, 2008, did not cure the defect or begin the running of the 60-day period. The July 3, 2008, proof of service did not accompany a notice of entry of judgment or file-stamped copy of the judgment. Thus, respondents did not serve any document on appellants that commenced the running of the 60-day period under rule 8.104(a)(2). Because neither the court clerk nor a party served a document that complied with rule 8.104(a)(1) or (2), appellants were required to file their notice of appeal within 180 days after entry of judgment, as specified in rule 8.104(a)(3). Judgment was entered on April 25, 2008. Appellants' notice of appeal was filed timely on July 17, 2008.

II. Appealability

Respondents contend that, even if appellants' notice of appeal was filed timely, the judgment appealed from was not a final appealable judgment, and therefore the appeal

should be dismissed. They contend the judgment was not final because the second cause of action for declaratory relief remained pending.

A trial court's order is appealable when it is made so by statute. (*Griset v. Fair Political Practices Com.* (2001) 25 Cal.4th 688, 696 (*Griset*).) Pursuant to statute, a final judgment is appealable. (Code Civ. Proc. § 904.1, subd. (a)(1); *Sullivan v. Delta Air Lines, Inc.* (1997) 15 Cal.4th 288, 304 (*Sullivan*).) The test of finality has been stated as follows: "'It is not the form of the decree but the substance and effect of the adjudication which is determinative. As a general test, which must be adapted to the particular circumstances of the individual case, it may be said that where no issue is left for future consideration except the fact of compliance or noncompliance with the terms of the first decree, that decree is final, but where anything further in the nature of judicial action on the part of the court is essential to a final determination of the rights of the parties, the decree is interlocutory.'" (*Griset, supra,* 25 Cal.4th at p. 698.) Generally, if the judgment disposes of fewer than all the causes of action of the complaint, it is not final because other causes of action remain pending. (*Sullivan, supra,* 15 Cal.4th at p. 307.)

"[A]n order granting or denying a petition for an extraordinary writ constitutes a final judgment for purposes of an appeal, even if the order is not accompanied by a separate formal judgment." (*Public Defenders' Organization v. County of Riverside* (2003) 106 Cal.App.4th 1403, 1409.) Generally, such an order is not separately appealable when the petition has been joined with other causes of action that remain unresolved. (*Griset, supra,* 25 Cal.4th at pp. 696-697.) However, when the court's ruling on the petition for a writ of mandate disposes of all the issues between the parties, because it resolves an allegation essential to all causes of action, the ruling constitutes a final judgment. (*Id*. at p. 700.)

In *Griset*, although the trial court did not rule explicitly on the appended causes of action, all of plaintiffs' causes of action were based on the alleged unconstitutionality of a certain statute; the trial court's ruling on the petition for writ of mandate concluded that the statute was constitutional, which effectively resolved all causes of action. (*Griset, supra,* 25 Cal.4th at pp. 699, 700.) Accordingly, the court treated the order denying the

petition for a writ of mandate as a final appealable judgment. Similarly, in *Breslin v. City and County of San Francisco* (2007) 146 Cal.App.4th 1064, where petitioners, four police officers, sought dismissal of disciplinary proceedings against them based on an allegation the statute of limitations had run, the trial court's order denied the petition for a writ of mandate and request for injunctive relief, but did not purport to rule on causes of action for administrative mandate and declaratory relief. (*Id*. at p. 1073.) The court nonetheless concluded the order constituted a final appealable judgment, because it determined the statute of limitations did not bar the disciplinary proceedings, and that determination completely resolved an allegation essential to all the alleged causes of action. (*Id*. at pp. 1073-1074.)

In the instant case, the petition sought a writ of mandate enforcing respondents' alleged right to inspect the books and records of the Temple pursuant to sections 9511 and 9512. Those sections permit a member of a nonprofit religious corporation to inspect books and records of the corporation. Respondents alleged in their petition that they are members of the Temple, and therefore entitled to inspect the corporation's books and records. The second cause of action sought a declaration that the Exhibit A bylaws are the true bylaws of the Temple.

Respondents' allegation that they were entitled to inspect and copy the books and records of the Temple was based on their assertion that they are members of the Temple; they sought to prove membership under the definition included in the Exhibit A bylaws. Appellants denied the Exhibit A bylaws were the current valid bylaws of the Temple, but did not produce any other set of bylaws they contended was valid and in effect at the time respondents made their request for inspection. Appellants asserted the Temple has no members, so respondents are not members and have no right to inspect or copy its books or records pursuant to sections 9511 and 9512. After considering all the evidence presented and the argument of counsel, the trial court granted the writ petition. The judgment on the writ petition concluded respondents had standing to bring the petition. Subject to extensive protective provisions, it ordered appellants to permit inspection by respondents and their counsel of the Temple's accounting books and records and the

minutes of meetings of the board of directors or other decision making body. The judgment also ordered appellants to produce for inspection by respondents' counsel (but not by respondents themselves) all of the bylaws of the Temple and amendments thereto from the inception of its corporate existence. The judgment concluded with the statement: "The terms and conditions of this Order including, but not limited to any protective orders contained herein are without prejudice of either party to seek modification by way of proper proceedings to effect such modification."

Respondents assert "the decision granting the petition for a writ of mandate is preliminary to Respondents seeking a declaration under the second cause of action for a determination that the bylaws attached to the complaint as Exhibit A 'are the true bylaws of the … Temple and no other amendments have been made thereto.'" We think respondents have it backwards.

The writ of mandate is not a discovery order, requiring appellants to produce documents respondents believe are necessary to prove the allegations of their second cause of action. "A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station." (Code Civ. Proc., § 1085, subd. (a).) "What is required to obtain writ relief is a showing by a petitioner of '(1) A clear, present and usually ministerial duty on the part of the respondent ... ; and (2) a clear, present and beneficial right in the petitioner to the performance of that duty ….' [Citation.]" (*Santa Clara County Counsel Attys. Assn. v. Woodside* (1994)7 Cal.4th 525, 539-540.) By their petition, respondents sought a writ to compel the Temple to perform its duty to allow respondents to inspect its books and records. To prevail, they were required to establish their right to that performance. This they sought to do by proving they were members of the Temple, as membership is defined in the Temple's bylaws. In order to obtain a writ of mandate on this theory, they were required to prove that the current and effective bylaws defined "members" of the Temple and that respondents fell within that definition. Absent proof that the bylaws under which they claimed

membership were the valid bylaws of the corporation, they failed to prove they were entitled to inspection of the corporation's records under sections 9511 and 9512.

Thus, proof that the Exhibit A bylaws were in effect at the time of respondents' request for inspection was a prerequisite to issuance of the writ; issuance of the writ was not a preliminary step to determination of the validity of the Exhibit A bylaws.

The trial court could not have granted the petition unless it found respondents met the requirements of sections 9511 and 9512, including the requirement that they be members of the Temple. Because the only basis for membership presented by respondents was the definition of members set out in the Exhibit A bylaws, the court's ruling implicitly included a finding that the Exhibit A bylaws validly defined the members of the Temple and the definition included respondents. At the hearing, when the court set out its tentative ruling, it stated: "The Court does determine that the bylaws attached to the petition are the bylaws" of the Temple. The court also stated twice that respondents had standing to bring the petition for a writ of mandate, the second time in response to statements by respondents' counsel concerning whether the Temple had members. The judgment expressly concluded that respondents had standing to bring the petition for a writ of mandate.

To the extent the court's decision explicitly or implicitly included a determination that the Exhibit A bylaws are the current, valid bylaws of the corporation, it resolved the issues presented by the second cause of action, as well as the writ petition, so nothing is left pending and still to be determined by the court. Although the judgment contained language reserving jurisdiction to modify the protective provisions under which inspection was to be allowed in the event of changed circumstances, its decision that respondents were entitled to inspection was final; it was not made conditionally or subject to later modification. Accordingly, we find that the judgment is final and appealable.

III. Substantial Evidence Respondents Are Members of Corporation

"'In reviewing the trial court's ruling on a writ of mandate [under Code of Civil Procedure section 1085], the appellate court is ordinarily confined to an inquiry as to

whether the findings and judgment of the trial court are supported by substantial, credible and competent evidence.'" (*Pacific Gas & Electric Co. v. Department of Water Resources* (2003) 112 Cal.App.4th 477, 491.)

Respondents sought to inspect the membership list and books and records of the corporation pursuant to sections 9511 and 9512. These sections apply to nonprofit religious corporations. (§ 9110.) Section 9511 provides:

> "Except as otherwise provided in the articles or bylaws, a member may inspect and copy the record of all the members' names, addresses and voting rights, at reasonable times, upon five business days' prior written demand upon the corporation for a purpose reasonably related to the member's interest as a member."

Section 9512 provides:

> "Except as otherwise provided in the articles or bylaws, the accounting books and records and minutes of proceedings of the members and the board and committees of the board shall be open to inspection upon the written demand on the corporation of any member at any reasonable time, for a purpose reasonably related to such person's interests as a member."

The rights of inspection afforded by these two sections apply only to "members" of the nonprofit religious corporation. The term "member" is defined in section 5056.[3]

> "'Member' means any person who, pursuant to a specific provision of a corporation's articles or bylaws, has the right to vote for the election of a director or directors or on a disposition of all or substantially all of the assets of a corporation or on a merger or on a dissolution …. 'Member' also means any person who is designated in the articles or bylaws as a member and, pursuant to a specific provision of a corporation's articles or bylaws, has the right to vote on changes to the articles or bylaws." (§ 5056, subd. (a).)

A nonprofit religious corporation is not required to have members.

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3 Section 5056 is made applicable to nonprofit religious corporations by section 5003.

> "(a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. *In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members*.
>
> "(b) Subject to the articles or bylaws, in the case of a corporation which has no members:
>
> "(1) Any action for which there is no specific provision of this part applicable to a corporation which has no members and which would otherwise require approval by a majority of all members (Section 5033) or approval by the members (Section 5034) shall require only approval of the board.
>
> "(2) All rights which would otherwise vest under this part in the members shall vest in the directors.
>
> "(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members." (§ 9310, italics added.)

Thus, the burden in the trial court was on respondents to prove they were members of the corporation, authorized to inspect the membership list, books, and records of the Temple. In their verified petition, respondents asserted they were members of the Temple; they asserted the original bylaws of the Temple were attached as Exhibit A, and these bylaws were never amended. The Exhibit A bylaws state that the general committee consists of all person at least 18 years of age, who have been residents of California for one year, who know Punjabi and are able to read and write Gurmukhi, or who learn to speak and write Punjabi within one year if they are new to the Sikh faith. The membership fee is $12 per year; the life membership fee is $1,000. A member's wife is automatically a member. Members are required to follow the Sikh ideals. The bylaws also provide for the election of a managing committee and officers, and the selection of a priest.

In support of their application for issuance of a peremptory or alternative writ of mandate, respondents filed the declaration of respondent, Satnam Singh Sandher, which stated the declarant had been a "dues paying member" of the

Temple since 1988, had never been asked to vote on changes to the bylaws, and was unaware of any notification to the members of any changes in the bylaws.

In opposition to the application for issuance of a writ of mandate, appellants submitted the declaration of Harjinder Singh, secretary of the Temple. Singh denied that the Exhibit A bylaws were the current bylaws of the Temple.[4] He stated that the actual bylaws do not provide for admitting persons to membership in the corporation; they provide that the Temple is governed and controlled by a board of directors.

Respondents' reply papers included a declaration of respondent, Mohani Thiara, in which she stated that her father was a founding member of the Temple and its president from 1981 through 1987. She described observing her father's activities and discussion, and learning of the need that the Temple have bylaws in order to obtain tax exempt status. She stated she was familiar with the Temple's bylaws as a result, and she recognized the Exhibit A bylaws as the bylaws her father talked about as the Temple's original bylaws. She further stated that the bylaws have never been changed while she has been a member of and attended the Temple, so the Exhibit A bylaws are still the bylaws of the Temple.

Respondents' reply papers also included the declaration of their attorney, Mark Cohen. He stated that, when a nonprofit religious corporation seeks to obtain tax exempt status from the state, it must file with the Franchise Tax Board a Form FTB3500, along with a copy of "the corporation's bylaws that have been adopted by the corporation along with a written explanations [*sic*] to answers given to some questions on the FTB3500 form." He requested from the Franchise Tax Board a copy of the Temple's FTB3500 application and the attachments, including any bylaws. Cohen stated that the Exhibit A bylaws were "the very

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4 A copy of the bylaws, "certified to be a true copy by a person purporting to be the secretary … of the corporation, is prima facie evidence of the adoption of such bylaws." (§ 9215.) Here, the secretary of the corporation denied the Exhibit A bylaws were adopted by the corporation.

bylaws [he] received from the Franchise Tax Board" and "the very bylaws that the … Temple represented to the Franchise Tax Board to be the bylaws of their corporation."

The court sustained appellants' objections to the portions of Thiara's declaration describing her observations of her father's efforts to obtain tax exempt status for the Temple and the discussion of the need for bylaws, as well as her statement that she recognized the Exhibit A bylaws as the original bylaws of the Temple. It also sustained the objections to Thiara's statements that the Exhibit A bylaws have never been changed and are still the Temple's bylaws. The rulings on those objections have not been challenged in this appeal. Thus, the only evidence supporting respondent's contention that the Exhibit A bylaws, under which they claimed membership in the Temple, were the current, effective bylaws of the Temple was the Cohen declaration, which stated that the Exhibit A bylaws were the same as those submitted by the Temple to the Franchise Tax Board.

The FTB3500 form attached to Cohen's declaration states: "YOU MUST ATTACH THE APPLICABLE INFORMATION REQUESTED: … A copy of your bylaws, proposed bylaws, or other similar code of regulations." Thus, contrary to Cohen's representation, form FTB3500 did not require that an applicant submit "bylaws that have been adopted by the corporation"; the applicant was permitted to submit proposed bylaws. Additionally, item 8(d) of the form asks, "Are you a membership organization?" and the form reflects the Temple's response of "No."

There was no substantial evidence before the court, as to which an objection had not been sustained, that supported a finding that the Exhibit A bylaws were the valid, effective bylaws of the Temple. The Franchise Tax Board documents indicated the bylaws submitted with the FTB3500 form could have been either the valid bylaws or proposed bylaws that had not yet been adopted. The Temple's secretary denied that they were the valid bylaws. The provisions of the Exhibit A bylaws setting out the requirements for becoming a member of the

Temple were the only basis respondents presented for their claims that they were members of the corporation entitled to inspect its books and records. Because there was no substantial evidence that those bylaws were the bylaws validly in effect at the time of respondents' demand for inspection of the Temple's books and records, there was also no substantial evidence to support the court's conclusion that respondents were members of the Temple who were entitled to inspect the Temple's books and records pursuant to sections 9511 and 9512. Consequently, the judgment granting respondents access to the books and records of the Temple must be reversed.

We note that, during oral argument, counsel for the Temple agreed that, if respondents renew their request in the trial court for a writ of mandate ordering the Temple to grant respondents access to the books and records of the corporation, the trial court should review in camera the bylaws the Temple represents are the current valid bylaws of the corporation, in order to make the necessary factual and legal determinations in response to that request.

DISPOSITION

The judgment is reversed. Appellants are awarded their costs on appeal.

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HILL, J.

WE CONCUR:

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CORNELL, Acting P.J.

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POOCHIGIAN, J.